



## **Presentations & Awards/City Commission Meeting**

### **ADDENDUM MATERIAL 2**

**City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive  
March 18, 2015**

Mayor Philip Levine  
Vice-Mayor Jonah Wolfson  
Commissioner Michael Grieco  
Commissioner Joy Malakoff  
Commissioner Micky Steinberg  
Commissioner Edward L. Tobin  
Commissioner Deede Weithorn

City Manager Jimmy L. Morales  
City Attorney Raul J. Aguila  
City Clerk Rafael E. Granado

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#### **ATTENTION ALL LOBBYISTS**

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

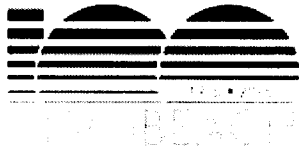
#### **ADDENDUM AGENDA**

##### **R7 - Resolution**

- R7G A Resolution Accepting The Recommendation Of The Mayor's Blue Ribbon Panel On Flooding And Sea Rise, And Submitting Comments To The Federal Emergency Management Agency Regarding The Proposed Revised Guidelines For Implementing Executive Order 11988, Entitled "Floodplain Management," As Amended By Executive Order 13690 [Docket ID FEMA-2015-0006].

(Sponsored by Commissioner Joy Malakoff)  
(Legislative Tracking: Office of the City Attorney)

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OFFICE OF THE CITY ATTORNEY  
RAUL J. AGUILA, CITY ATTORNEY

## COMMISSION MEMORANDUM

**TO:** Mayor Philip Levine  
Members of the City Commission  
City Manager Jimmy Morales

**FROM:** City Attorney Raul J. Aguila

**DATE:** March 18, 2015

**SUBJECT:** A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE MAYOR'S BLUE RIBBON PANEL ON FLOODING AND SEA RISE, AND SUBMITTING COMMENTS TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY REGARDING THE PROPOSED REVISED GUIDELINES FOR IMPLEMENTING EXECUTIVE ORDER 11988, ENTITLED "FLOODPLAIN MANAGEMENT," AS AMENDED BY EXECUTIVE ORDER 13690 [DOCKET ID FEMA-2015-0006].

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Pursuant to the request of Commissioner Joy Malakoff, the attached Resolution is submitted for consideration by the Mayor and City Commission.

On January 30, 2015, President Obama issued Executive Order 13690 (attached hereto) that declared that the "Federal Government must take action, informed by the best-available and actionable science, to improve the Nation's preparedness and resilience against flooding," established a new Federal Flood Risk Management Standard (FFRMS) that amended the prior standard established in 1977 in Executive Order 11988, and solicited public input prior to the implementation of the new FFRMS. The FFRMS will give federal agencies flexibility in establishing flood elevations for federally-funded construction projects by authorizing the use of one of three methods: a climate-informed science approach, a freeboard approach, and a 500-year flood elevation approach, instead of the prior standard that solely utilized a 100-year floodplain method.

At the meeting of the Mayor's Blue Ribbon Panel on Flooding and Sea Rise on March 17, 2015, the Panel passed a motion recommending that the Mayor and City Commission direct the City Administration to prepare comments for submission to the Federal Emergency Management Agency ("FEMA") on or before April 6, 2015, or on or

Agenda Item R76  
Date 3-18-15

before the expiration of any extended comment period, regarding the Revised Guidelines for implementing Executive Order 11988, as amended by Executive Order 13690, that are consistent with the City of Miami Beach's policies and positions regarding sea level rise and floodplain management.

Comments on the Revised Guidelines for Implementing Executive Order 11988, as amended by Executive Order 13690, are due to be filed with FEMA on or before April 6, 2015, unless that deadline is extended.

The attached Resolution, and a corresponding motion directing the City Administration to develop comments to be attached thereto that are consistent with the City's policies and position regarding sea level rise and floodplain management, is submitted for consideration by the Mayor and City Commission so that the City's input may be timely received by the Federal Government. The new FFRMS will have implications for all federal construction projects as well as City construction projects that are federally funded.

Exec. Order No. 1369080 FR 64252015 WL 431404(Pres.)  
Executive Order 13690

Establishing a Federal Flood Risk Management Standard and a  
Process for Further Soliciting and Considering Stakeholder Input

January 30, 2015

**\*6425** By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve the Nation's resilience to current and future flood risk, I hereby direct the following:

Section 1. Policy. It is the policy of the United States to improve the resilience of communities and Federal assets against the impacts of flooding. These impacts are anticipated to increase over time due to the effects of climate change and other threats. Losses caused by flooding affect the environment, our economic prosperity, and public health and safety, each of which affects our national security.

The Federal Government must take action, informed by the best-available and actionable science, to improve the Nation's preparedness and resilience against flooding. Executive Order 11988 of May 24, 1977 (Floodplain Management), requires executive departments and agencies (agencies) to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative. The Federal Government has developed processes for evaluating the impacts of Federal actions in or affecting floodplains to implement Executive Order 11988.

As part of a national policy on resilience and risk reduction consistent with my Climate Action Plan, the National Security Council staff coordinated an interagency effort to create a new flood risk reduction standard for federally funded projects. The views of Governors, mayors, and other stakeholders were solicited and considered as efforts were made to establish a new flood risk reduction standard for federally funded projects. The result of these efforts is the Federal Flood Risk Management Standard (Standard), a flexible framework to increase resilience against flooding and help preserve the natural values of floodplains. Incorporating this Standard will ensure that agencies expand management from the current base flood level to a higher vertical elevation and corresponding horizontal floodplain to address current and future flood risk and ensure that projects funded with taxpayer dollars last as long as intended.

This order establishes the Standard and sets forth a process for further solicitation and consideration of public input, including from Governors, mayors, and other stakeholders, prior to implementation of the Standard.

Sec. 2. Amendments to Executive Order 11988. Executive Order 11988 is amended as follows:

(a) Section 2 is amended by inserting “, to the extent permitted by law” after “as follows”.

(b) Section 2(a)(1) is amended by striking “This Determination shall be made according to a Department of Housing and Urban Development (HUD) floodplain map or a more detailed map of an area, if available. If such maps are not available, the agency shall make a determination of the location of the floodplain based on the best-available information. The Water Resources Council shall issue guidance on this information not later than October 1, 1977” and inserting in lieu thereof “To determine whether the y6426action is located in a floodplain, the agency shall use one of the approaches in Section 6(c) of this Order based on the best-available information and the Federal Emergency Management Agency's effective Flood Insurance Rate Map”.

(c) Section 2(a)(2) is amended by inserting the following sentence after the first sentence:

“Where possible, an agency shall use natural systems, ecosystem processes, and nature-based approaches when developing alternatives for consideration.”.

(d) Section 2(d) is amended by striking “Director” and inserting “Administrator” in lieu thereof.

(e) Section 3(a) is amended by inserting the following sentence after the first sentence:

“The regulations and procedures must also be consistent with the Federal Flood Risk Management Standard (FFRMS).”.

(f) Section 3(a) is further amended by inserting “and FFRMS” after “Flood Insurance Program”.

(g) Section 3(b) is amended by striking “base flood level” and inserting “elevation of the floodplain as defined in Section 6(c) of this Order” in lieu thereof.

(h) Section 4 is revised to read as follows:

“In addition to any responsibilities under this Order and Sections 102, 202, and 205 of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4012a, 4106, and 4128), agencies which guarantee, approve, regulate, or insure any financial transaction which is related to an area located in an area subject to the base flood shall, prior to completing action on such transaction, inform any private parties participating in the transaction of the hazards of locating structures in the area subject to the base flood.”.

(i) Section 6(c) is amended by striking “, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year” and inserting in lieu thereof:

“ . The floodplain shall be established using one of the following approaches:

“(1) Unless an exception is made under paragraph (2), the floodplain shall be:

“(i) the elevation and flood hazard area that result from using a climate-informed science approach that uses the best-available, actionable hydrologic and hydraulic data and methods that integrate current and future changes in flooding based on climate science. This approach will also include an emphasis on whether the action is a critical action as one of the factors to be considered when conducting the analysis;

“(ii) the elevation and flood hazard area that result from using the freeboard value, reached by adding an additional 2 feet to the base flood elevation for non-critical actions and by adding an additional 3 feet to the base flood elevation for critical actions;

“(iii) the area subject to flooding by the 0.2 percent annual chance flood; or

“(iv) the elevation and flood hazard area that result from using any other method identified in an update to the FFRMS.

“(2) The head of an agency may except an agency action from paragraph (1) where it is in the interest of national security, where the agency action is an emergency action, where application to a Federal facility or structure is demonstrably inappropriate, or where the agency action is a mission-critical requirement related to a national security interest or an emergency action. When an agency action is excepted from paragraph (1) because it is in the interest of national security, it is an emergency action, or y6427it is a mission-critical requirement related to a national security interest or an emergency action, the agency head shall rely on the area of land subject to the base flood”.

(j) Section 6 is further amended by adding the following new subsection (d) at the end:

“(d) The term 'critical action' shall mean any activity for which even a slight chance of flooding would be too great.”.

(k) Section 8 is revised to read as follows:

“Nothing in this Order shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety, performed pursuant to Sections 403 and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (42 U.S.C. 5170b and 5192).”.

Sec. 3. Agency Action. (a) Prior to any action to implement the Standard, additional input from stakeholders shall be solicited and considered. To carry out this process:

(i) the Federal Emergency Management Agency, on behalf of the Mitigation Framework Leadership Group, shall publish for public comment draft amended Floodplain Management Guidelines for Implementing Executive Order 11988 (Guidelines) to provide guidance to agencies on the implementation of Executive Order 11988, as amended, consistent with the Standard;

(ii) during the comment period, the Mitigation Framework Leadership Group shall host public meetings with stakeholders to solicit input; and

(iii) after the comment period closes, and based on the comments received on the draft Guidelines during the comment period, in accordance with subsections (a)(i) and (ii) of this section, the Mitigation Framework Leadership Group shall provide recommendations to the Water Resources Council.

(b) After additional input from stakeholders has been solicited and considered as set forth in subsections (a)(i) and (ii) of this section and after consideration of the recommendations made by the Mitigation Framework Leadership Group pursuant to subsection (a)(iii) of this section, the Water Resources Council shall issue amended Guidelines to provide guidance to agencies on the implementation of Executive Order 11988, as amended, consistent with the Standard.

(c) To the extent permitted by law, each agency shall, in consultation with the Water Resources Council, Federal Interagency Floodplain Management Task Force, Federal Emergency Management Agency, and Council on Environmental Quality, issue or amend existing regulations and procedures to comply with this order, and update those regulations and procedures as warranted. Within 30 days of the closing of the public comment period for the draft amendments to the Guidelines as described in subsection (a) of this section, each agency shall submit an implementation plan to the National Security Council staff that contains milestones and a timeline for implementation of this order and the Standard, by the agency as it applies to the agency's processes and mission. Agencies shall not issue or amend existing regulations and procedures pursuant to this subsection until after the Water Resources Council has issued amended Guidelines pursuant to subsection (b) of this order.

Sec. 4. Reassessment. (a) The Water Resources Council shall issue any further amendments to the Guidelines as warranted.

(b) The Mitigation Framework Leadership Group in consultation with the Federal Interagency Floodplain Management Task Force shall reassess the Standard annually, after seeking stakeholder input, and provide recommendations to the Water Resources Council to update the Standard if warranted based on accurate and actionable science that takes into account changes to climate and other changes in flood risk. The Water Resources Council shall issue an update to the Standard at least every 5 years.

Sec. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect: **\*6428**

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Water Resources Council shall carry out its responsibilities under this order in consultation with the Mitigation Framework Leadership Group.

BARACK OBAMA

THE WHITE HOUSE, January 30, 2015.

Exec. Order No. 1369080 FR 64252015 WL 431404(Pres.)

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE MAYOR'S BLUE RIBBON PANEL ON FLOODING AND SEA RISE, AND SUBMITTING COMMENTS TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY REGARDING THE PROPOSED REVISED GUIDELINES FOR IMPLEMENTING EXECUTIVE ORDER 11988, ENTITLED "FLOODPLAIN MANAGEMENT," AS AMENDED BY EXECUTIVE ORDER 13690 [DOCKET ID FEMA-2015-0006].**

**WHEREAS**, Mayor Philip Levine, in his testimony before the Subcommittee on Space and Science of the U.S. Senate Committee on Commerce, Science, and Transportation, on April 22, 2014, declared that the City of Miami Beach's "geographic location and low-lying topography make us inherently vulnerable to flooding, storm surge, and other climate change impacts"; and

**WHEREAS**, the City of Miami Beach ("City") has championed efforts to address the effects of sea level rise and to ensure the City's resiliency by investing millions of dollars in its infrastructure for flood mitigation; and

**WHEREAS**, the City is strengthening its land development regulations to, among other things, establish a mandatory Miami Beach freeboard requirement and increased minimum height standards for seawalls, crowns of roads, and curb inlets; and

**WHEREAS**, on January 30, 2015, President Barack Obama issued Executive Order 13690, titled "Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input," (the "Executive Order") amending Executive Order 11988, entitled "Floodplain Management"; and

**WHEREAS**, the Executive Order requires Federal agencies to avoid, to the extent possible, the long and short-term adverse impacts associated with the occupancy and modification of floodplains; and

**WHEREAS**, the Executive Order also requires that Federal agencies minimize potential harm to people and property and to natural and beneficial floodplain values; and

**WHEREAS**, the Executive Order broadens the definition of "floodplain" used by Federal agencies to include the following approaches:

- (i) Climate-informed Science Approach – Agencies shall use the best available, actionable hydrologic and hydraulic data and methods that integrate current and future changes in flooding based on climate and related science to determine the flood elevation and flood hazard area in a manner appropriate to policies, practices, criticality, and consequences. (In some cases, this flood elevation could correspond to the projected 1-percent-annual-chance flood.);

- (ii) Freeboard Value Approach – Agencies shall use the Base Flood Elevation (or 1-percent-annual-chance flood determined using best available data) and an additional height to calculate the freeboard value. The additional height will depend on whether or not the action is a critical action; or
- (iii) The “500-year” Elevation Approach – Agencies shall use the 0.2-percent-annual-chance flood elevation (also known as the “500-year” flood elevation); and

**WHEREAS**, the Executive Order authorizes future amendments to the definition to include additional approaches; and

**WHEREAS**, the Federal Emergency Management Agency (“FEMA”) published proposed Revised Guidelines for Implementing Executive Order 11988, entitled “Floodplain Management” (“Revised Guidelines”) for public comment; and

**WHEREAS**, the Implementing Guidelines, once approved by FEMA, will impact the availability and nature of federal funding for projects in the City; and

**WHEREAS**, as a coastal community of low-lying islands vulnerable to the impacts of sea level rise, the City submits the attached comments to the Revised Guidelines for consideration by FEMA.

**NOW, THEREFORE, THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, hereby accepts the recommendation of the Mayor’s Blue Ribbon Panel on Flooding and Sea Rise and submits the attached comments to the Federal Emergency Management Agency regarding the proposed Revised Guidelines for Implementing Executive Order 11988, entitled “Floodplain Management,” as amended by Executive Order 13690 [Docket ID FEMA-2015-0006].

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

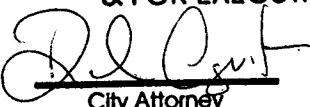
**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

\_\_\_\_\_  
Philip Levine, Mayor

(Sponsored by Commissioner Joy Malakoff)

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

3/17/15  
\_\_\_\_\_  
Date

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